

AMENDED IN ASSEMBLY JUNE 28, 1999

AMENDED IN SENATE APRIL 19, 1999

**SENATE BILL**

**No. 738**

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**Introduced by Committee on Insurance (Senators Speier  
(Chair), Escutia, Figueroa, Johnson, Lewis, and Sher)**

February 24, 1999

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An act to amend Sections 22000, 22001, 22002, 22003, 22004, 22005, 22006, 22007, 22008, 22008.5, and 22009 of, to amend and renumber ~~Sections 22008.5 and~~ *Section* 22013 of, and to repeal Sections 22008, ~~22010~~, ~~22010~~ and 22011 of, the Welfare and Institutions Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 738, as amended, Committee on Insurance. Long-term care program.

Existing law establishes the California Partnership for Long-Term Care Pilot Program. The purpose of the program is to link private long-term care insurance and health care service plan contracts that cover long-term care with the in-home supportive services program and Medi-Cal and to provide Medi-Cal benefits to certain individuals who have income and resources above the eligibility levels for receipt of medical assistance, but who have purchased certified private long-term care insurance policies and subsequently exhausted the benefits of these private policies. The State Department of Health Services is required to serve as the lead agency in administering the pilot program and to certify

long-term care policies and health care service plan contracts under the pilot program.

Existing law provides that the resource protection provided by the pilot program shall be effective only for long-term care policies and health care service plans delivered, issued for delivery, or renewed during an enrollment period of July 1, 1993, to June 30, 2000, inclusive, or before the termination of the pilot program, whichever is sooner. The director is required to annually report to the Legislature regarding the progress of the pilot program by January 1 of each year.

This bill would make the pilot program a permanent program applicable to long-term care policies and health care service plans delivered, issued for delivery, or renewed after July 1, 1993. The bill would eliminate the requirement that the State Department of Health Services be the lead agency for the program *as well as the annual reporting requirement*.

The bill would provide, in addition to the existing requirement that the State Department of Health Services certify long-term care policies and health care service plan contracts under the program, that ~~the Department of Insurance approve~~ these policies and contracts *be approved by the Department of Insurance, and would revise the criteria for certification and approval*.

~~The bill would require the director to provide the annual progress report to the Legislature, unless otherwise excused by the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22000 of the Welfare and  
2 Institutions Code is amended to read:

3 22000. The California Partnership for Long-Term  
4 Care Program is hereby established.

5 SEC. 2. Section 22001 of the Welfare and Institutions  
6 Code is amended to read:

7 22001. The purpose of the program is to link private  
8 long-term care insurance and health care service plan  
9 contracts that cover long-term care with the In-Home

1 Supportive Services program (Article 7 (commencing  
2 with Section 12300) of Chapter 3 of Part 3 of Division 9)  
3 and Medi-Cal, and to provide specified in-home  
4 supportive services benefits and specified Medi-Cal  
5 benefits to the purchasers of approved and certified  
6 insurance policies and health care service plan contracts  
7 who qualify under the special provisions of this division.

8 SEC. 3. Section 22002 of the Welfare and Institutions  
9 Code is amended to read:

10 22002. The State Department of Health Services shall  
11 seek any federal waivers and approvals necessary to  
12 accomplish the purposes of this division.

13 SEC. 4. Section 22003 of the Welfare and Institutions  
14 Code is amended to read:

15 22003. (a) Individuals who participate in the  
16 program and have resources above the eligibility levels  
17 for receipt of medical assistance under Title XIX of the  
18 Social Security Act (Subchapter XIX (commencing with  
19 Section 1396) of Chapter 7 of Title 42 of the United States  
20 Code) shall be eligible to receive those in-home  
21 supportive services benefits specified by the State  
22 Department of Social Services, and those Medi-Cal  
23 benefits specified by the State Department of Health  
24 Services, for which they would otherwise be eligible, if,  
25 prior to becoming eligible for benefits, they have  
26 purchased a long-term care insurance policy or a health  
27 care service plan contract covering long-term care that  
28 has been approved by the Department of Insurance and  
29 certified by the State Department of Health Services  
30 pursuant to Section 22005.

31 (b) Individuals may purchase approved and certified  
32 long-term care insurance policies or health care service  
33 plan contracts which cover long-term care services in  
34 amounts equal to the resources they wish to protect, so  
35 long as the amount of insurance purchased exceeds the  
36 minimum level set by the State Department of Health  
37 Services pursuant to Section 22009.

38 (c) The resource protection provided by this division  
39 shall be effective only for long-term care policies, and  
40 health care service plan contracts that cover long-term

1 care services, when the policy or contract is delivered,  
2 issued for delivery, or renewed on or after July 1, 1993.

3 SEC. 5. Section 22004 of the Welfare and Institutions  
4 Code is amended to read:

5 22004. Notwithstanding other provisions of law, the  
6 resources, to the extent described in subdivision (c), of an  
7 individual who purchases an approved and certified  
8 long-term care insurance policy or health care service  
9 plan contract which covers long-term care services shall  
10 not be considered by:

11 (a) The State Department of Health Services in  
12 determining:

13 (1) Medi-Cal eligibility.

14 (2) The amount of any Medi-Cal payment.

15 (3) The amount of any subsequent recovery by the  
16 state of payments made for medical services.

17 (b) The State Department of Social Services in  
18 determining:

19 (1) Eligibility for in-home supportive services  
20 provided pursuant to Article 7 (commencing with  
21 Section 12300) of Chapter 3 of Division 9.

22 (2) The amount of any payment for in-home  
23 supportive services.

24 (c) The resources not to be considered as provided by  
25 this section shall be equal to, or in some proportion set by  
26 the State Department of Health Services or State  
27 Department of Social Services that is less than equal to,  
28 the amount of long-term care insurance payments or  
29 benefits made as described in Section 22006.

30 SEC. 6. Section 22005 of the Welfare and Institutions  
31 Code is amended to read:

32 ~~22005. The Department of Insurance shall only~~  
33 ~~approve and the State Department of Social Services shall~~  
34 ~~only certify long-term care insurance or a health care~~  
35 ~~service plan contract that meets the requirements of~~  
36 ~~Chapter 2.6 (commencing with Section 10230) of Part 2~~  
37 ~~of Division 2 of the Insurance Code, excepting the~~  
38 ~~requirements of Sections 10232.1, 10232.2, 10232.25,~~  
39 ~~10232.8, 10232.9, and 10232.92, of the Insurance Code, or~~

~~approval of the health care service plan contract by the  
Department of Corporations~~

22005. *The State Department of Health Services shall only certify a long-term care insurance policy that has been approved by the Department of Insurance as meeting the requirements of Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code, excepting the requirements of Sections 10232.1, 10232.2, 10232.25, 10232.8, 10232.9, and 10232.92 of the Insurance Code, and that provides all of the items specified in subdivisions (a) to (e), inclusive, and shall only certify a health care service plan contract that has been approved by the Department of Corporations pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code as providing substantially equivalent coverage to that required by Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code and that provides all of the following:*

(a) Individual assessment and case management by an entity that is independent of the insurer.

(b) Levels and durations of benefits that meet minimum standards set by the State Department of Health Services or the State Department of Social Services pursuant to Section 22009.

(c) Protection against loss of benefits due to inflation.

(d) A periodic record issued to the insured including an explanation of insurance payments or benefits paid which count toward Medi-Cal asset protection under this division.

(e) Compliance with any other requirements imposed by regulations adopted by the State Department of Health Services or the State Department of Social Services and consistent with the purposes of this division.

SEC. 7. Section 22006 of the Welfare and Institutions Code is amended to read:

22006. The State Department of Health Services, in determining eligibility for Medi-Cal, and the State Department of Social Services, in determining eligibility for in-home supportive services, shall exclude resources

1 up to, or equal to, the amount of insurance payments or  
2 benefits paid by approved and certified long-term care  
3 insurance policies or health care service plan contracts  
4 which cover long-term care services to the extent that the  
5 benefits paid are for any of the following:

6 (a) In-home supportive services benefits specified in  
7 regulations adopted by the State Department of Social  
8 Services pursuant to Section 22009.

9 (b) Medi-Cal benefits as specified in regulations  
10 adopted by the State Department of Health Services  
11 pursuant to Section 22009.

12 (c) Services delivered to insured individuals in a  
13 community setting as part of an individual assessment  
14 and case management program provided by ~~an entity~~  
15 ~~approved by the State Department of Health Services as~~  
16 ~~an entity~~ independent of the insurer.

17 (d) Services the insured individual receives after  
18 meeting the disability criteria for eligibility for long-term  
19 care benefits established by the State Department of  
20 Health Services.

21 SEC. 8. Section 22007 of the Welfare and Institutions  
22 Code is amended to read:

23 22007. The program shall be designed so that the  
24 estimated aggregate state expenditures for long-term  
25 care services for individuals participating in the program  
26 do not exceed the aggregate expenditures that would be  
27 made for these services under the Medi-Cal program in  
28 effect prior to the implementation of this program.

29 ~~SEC. 9. Section 22008 of the Welfare and Institutions~~  
30 ~~Code is repealed.~~

31 *SEC. 9. Section 22008 of the Welfare and Institutions*  
32 *Code is amended to read:*

33 22008. Advice and counseling ~~shall~~ *may* be provided  
34 *by the Health Insurance Counseling and Advocacy*  
35 *program within the California Department of Aging* to  
36 individuals interested in purchasing long-term care  
37 insurance or health care service plan contracts ~~which that~~  
38 cover long-term care services *approved and* certified  
39 pursuant to this division. ~~This counseling and advice may~~  
40 ~~be provided by the Health Insurance Counseling and~~

~~Advocacy Program within the Department of Aging, as well as by others.~~

SEC. 10. Section 22008.5 of the Welfare and Institutions Code is amended and renumbered to read:

~~22008.—~~

22008.5. Individuals who participate in the program shall remain eligible for those in-home supportive services benefits and those Medi-Cal benefits for which they are eligible under the program for the life of the purchaser of the policy or contract, as long as the purchaser maintains his or her insurance policy or health care service plan contract in force, or otherwise qualifies for continued benefits in accordance with regulations promulgated by the departments.

SEC. 11. Section 22009 of the Welfare and Institutions Code is amended to read:

22009. (a) The State Department of Health Services shall adopt regulations to implement this division, including, but not limited to, regulations which establish:

(1) The population and age groups that are eligible to participate in the program.

(2) The minimum level of long-term care insurance or long-term care coverage included in health care service plan contracts that must be purchased to meet the requirement of subdivision (b) of Section 22003.

(3) The amount and types of services that a long-term care insurance policy or health care service plan contract which includes long-term care services must cover to meet the requirements of Section 22005.

(4) Which entities are approved as independent of the insurer to deliver individual assessment and case management services to individuals in a community setting as required by subdivision (c) of Section 22006.

(5) The disability criteria for eligibility for long-term care benefits as required by subdivision (d) of Section 22006.

(6) The specific eligibility requirements for receipt of the Medi-Cal benefits provided for by the program, and those Medi-Cal benefits for which participants in the program shall be eligible.



(b) The State Department of Social Services shall also adopt regulations to implement this division, including, but not limited to, regulations that establish:

(1) The specific eligibility requirements for in-home supportive services benefits.

(2) Those in-home supportive services benefits for which participants in the program shall be eligible.

(c) The State Department of Health Services and the State Department of Social Services shall also jointly adopt regulations that provide for the following:

(1) Continuation of benefits beyond the termination of the program pursuant to Section ~~22008~~ 22008.5.

(2) The protection of a participant's resources pursuant to Section 22004, and the ratio of resources to long-term care benefit payments as described in subdivision (c) of Section 22004.

(d) The departments shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this division. The adoption of regulations pursuant to this section in order to implement this division shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety.

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted pursuant to this section shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (c) of Section 11346.1 of the Government Code.

SEC. 12. Section 22010 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 22011 of the Welfare and Institutions Code is repealed.



1 SEC. 14. Section 22013 of the Welfare and Institutions  
2 Code is amended and renumbered to read:

3 22010. (a) In implementing this division, the State  
4 Department of Health Services may contract, on a bid or  
5 nonbid basis, with any qualified individual, organization,  
6 or entity for services needed to implement the project,  
7 and may negotiate contracts, on a nonbid basis, with  
8 long-term care insurers, health care service plans, or  
9 both, for the provision of coverage for long-term care  
10 services that will meet the certification requirements set  
11 forth in Section 22005 and the other requirements of this  
12 division.

13 (b) In order to achieve maximum cost savings, the  
14 Legislature declares that an expedited process for issuing  
15 contracts pursuant to this division is necessary. Therefore,  
16 contracts entered into on a nonbid basis pursuant to this  
17 section shall be exempt from the requirements of  
18 Chapter 1 (commencing with Section 10100) and  
19 Chapter 2 (commencing with Section 10290) of Part 2 of  
20 Division 2 of the Public Contract Code.

